

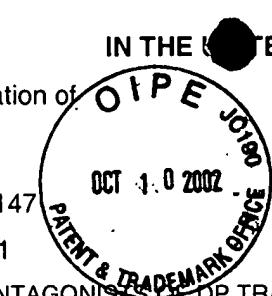
## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

1642

In re Patent Application of

LA THANGUE et al

Serial No. 09/900,147



Atty Dkt. 620-149

C#

M#

Group Art Unit: 1642

Examiner: YU, M.

Filed: July 9, 2001

Date: October 10, 2002

Title: PEPTIDE ANTAGONISTS OF DP TRANSCRIPTION FACTORS

RECEIVED

OCT 15 2002

TECH CENTER 1600/2900

Assistant Commissioner for Patents  
Washington, DC 20231

Sir:

**RESPONSE/AMENDMENT/LETTER**

This is a response/amendment/letter in the above-identified application and includes an attachment which is hereby incorporated by reference and the signature below serves as the signature to the attachment in the absence of any other signature thereon.

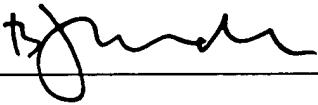
**Fees are attached as calculated below:**

Total effective claims after amendment previously paid for	0	minus highest number		
20	(at least 20) =	0 x \$ 18.00	\$	0.00
Independent claims after amendment previously paid for	0	minus highest number		
3	(at least 3) =	0 x \$ 84.00	\$	0.00
If proper multiple dependent claims now added for first time, add \$280.00 (ignore improper)				
Petition is hereby made to extend the current due date so as to cover the filing date of this paper and attachment(s) (\$110.00/1 month; \$400.00/2 months; \$920.00/3 months)				
Terminal disclaimer enclosed, add \$ 110.00				
<input type="checkbox"/> First/second submission after Final Rejection pursuant to 37 CFR 1.129(a) (\$740.00)				\$ 0.00
<input type="checkbox"/> Please enter the previously unentered , filed				
<input type="checkbox"/> Submission attached				
<b>Subtotal</b>				<b>\$ 0.00</b>
If "small entity," then enter half (1/2) of subtotal and subtract				-\$ 0.00
<input type="checkbox"/> Applicant claims "small entity" status. <input type="checkbox"/> Statement filed herewith				
Rule 56 Information Disclosure Statement Filing Fee (\$180.00)				\$ 0.00
Assignment Recording Fee (\$40.00)				\$ 0.00
Other: Response				0.00
<b>TOTAL FEE ENCLOSED</b>				<b>\$ 0.00</b>

The Commissioner is hereby authorized to charge any deficiency, or credit any overpayment, in the fee(s) filed, or asserted to be filed, or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Account No. 14-1140. A duplicate copy of this sheet is attached.

1100 North Glebe Road, 8<sup>th</sup> Floor  
Arlington, Virginia 22201-4714  
Telephone: (703) 816-4000  
Facsimile: (703) 816-4100  
BJS:plb

NIXON & VANDERHYE P.C.  
By Atty: B. J. Sadoff, Reg. No. 36,663

Signature: 

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

Atty Dkt. 620-149

LA THANGUE et al

C#

M#

Serial No. 09/900,147

Group Art Unit: 1642

Filed: July 9, 2001

Examiner: YU, M.

Date: October 10, 2002

Title: PEPTIDE ANTAGONISTS OF TRANSCRIPTION FACTORS

Assistant Commissioner for Patents

Washington, DC 20231

Sir:

RESPONSE/AMENDMENT/LETTER

This is a response/amendment/letter in the above-identified application and includes an attachment which is hereby incorporated by reference and the signature below serves as the signature to the attachment in the absence of any other signature thereon.

**Fees are attached as calculated below:**

Total effective claims after amendment	0	minus highest number				
previously paid for	20	(at least 20) =	0	x \$ 18.00	\$ 0.00	
Independent claims after amendment	0	minus highest number				
previously paid for	3	(at least 3) =	0	x \$ 84.00	\$ 0.00	
If proper multiple dependent claims now added for first time, add \$280.00 (ignore improper)					\$ 0.00	
Petition is hereby made to extend the current due date so as to cover the filing date of this paper and attachment(s) (\$110.00/1 month; \$400.00/2 months; \$920.00/3 months)					\$ 0.00	
Terminal disclaimer enclosed, add \$ 110.00					\$ 0.00	
<input type="checkbox"/> First/second submission after Final Rejection pursuant to 37 CFR 1.129(a) (\$740.00)					\$ 0.00	
<input type="checkbox"/> Please enter the previously unentered , filed						
<input type="checkbox"/> Submission attached						
					<b>Subtotal</b>	<b>\$ 0.00</b>
If "small entity," then enter half (1/2) of subtotal and subtract					-\$	0.00
<input type="checkbox"/> Applicant claims "small entity" status. <input type="checkbox"/> Statement filed herewith						
Rule 56 Information Disclosure Statement Filing Fee (\$180.00)					\$	0.00
Assignment Recording Fee (\$40.00)					\$	0.00
Other: Response						0.00
					<b>TOTAL FEE ENCLOSED</b>	<b>\$ 0.00</b>

The Commissioner is hereby authorized to charge any deficiency, or credit any overpayment, in the fee(s) filed, or asserted to be filed, or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Account No. 14-1140. A duplicate copy of this sheet is attached.

1100 North Glebe Road, 8<sup>th</sup> Floor  
 Arlington, Virginia 22201-4714  
 Telephone: (703) 816-4000  
 Facsimile: (703) 816-4100  
 BJS:plb

NIXON & VANDERHYE P.C.  
 By Atty: B. J. Sadoff, Reg. No. 36,663

Signature: 

Election / #7  
J 10.17.02

TECH CENTER 1600/2900

RECEIVED  
OCT 15 2002

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of

LA THANGUE et al

Serial No. 09/900,147

Filed: July 9, 2001

For: PEPTIDE ANTAGONISTS OF DP TRANSCRIPTION FACTORS



Atty. Ref.: 620-149

Group: 1642

Examiner: YU, M.

\* \* \* \* \*

October 10, 2002

Assistant Commissioner for Patents  
Washington, DC 20231

Sir:

**RESPONSE**

Responsive to the Official Action dated September 10, 2002, the applicants elect, with traverse, the subject matter of the Examiner's Group I and the alleged separately patentable species of cytotoxic agent. Reconsideration and withdrawal of the restriction requirement are requested.

The search of all the claimed subject matter will not be an undue burden on the Examiner and examination of all the claimed subject matter is requested. With regard to the Examiner's species election, the applicants believe the basis for the requirement is unclear and clarification is requested in view of the following. Specifically, the Examiner has stated that cytostatic and cytotoxic agents recited in claim 11 are patentably distinct because they have "different biological activities." See, page 3 of the Office Action dated September 10, 2002 (Paper No. 6). The applicants note that claim 11 refers

back to claim 10 which is directed to a pharmaceutical composition comprising the polypeptide of claim 1. Assuming this polypeptide is patentable, it is unclear how claim 11 contains two patentable distinct species. Moreover, the Examiner's basis for requiring the election is believed to be technically inappropriate. The Examiner is urged to appreciate that in any population of cells at any one time, some are static (i.e. are not undergoing the cell cycle) and a number are dying (by apoptosis or necrosis). Any antiproliferative agent will have an effect on the growth of this cell population. Usually, agents which tend to drive the balance towards cell cycle arrest are called cytostatic and those which drive the balance towards cell death tend to be called cytotoxic. However, in practice these agents have an effect on both cell cycle arrest and on cell death: the net effect depends upon many factors, including cell type, cell environment, concentration of anti-proliferative agent used. Therefore, the applicants believe that the differentiation of cytotoxic and cytostatic should not be the basis for defining separately patentable species and "cytotoxic use" cannot be regarded as a separate invention from "cytostatic use".

Reconsideration and withdrawal of the restriction requirement and examination of all the claimed subject matter are requested.

Respectfully submitted,

**NIXON & VANDERHYE P.C.**

By: 

B. J. Sadoff  
Reg. No. 36,663

BJS:plb  
1100 North Glebe Road, 8th Floor  
Arlington, VA 22201-4714  
Telephone: (703) 816-4000  
Facsimile: (703) 816-4100